

RECOMMENDATION ON THE VARIANCE APPLICATION OF

WSMP / 280 Flanagan Billboard

File #11-244

I. INTRODUCTION

An application for one (1) use variance and three (3) bulk variances has been filed with the New Jersey Meadowlands Commission (NJMC) by Louis L. D'Arminio, Esq., of the firm Price, Meese, Shulman & D'Arminio, P.C., on behalf of Interstate Outdoor Advertising, LP, for the premises located at 280 Flanagan Way, Block 132, Lot 7.01, in the Town of Secaucus, New Jersey. Said premises is located in the Commission's Neighborhood Commercial zone. The variances are sought in connection with the applicant's proposal to install a freestanding static face billboard sign on the subject premises.

Specifically, the applicant is requesting variance relief from the following:

1. N.J.A.C. 19:4-8.14(h) Table 8-5, which does not permit billboard signs in the Neighborhood Commercial zone.
2. N.J.A.C. 19:4-8.14(h)7ii(2), which does not permit billboard signs within 500 feet of a residential zone or residence.
3. N.J.A.C. 19:4-8.14(h)7v, which requires the maximum permitted height of a billboard sign to be 30 feet above the grade level of the adjacent roadway surface, whereas the applicant is proposing to install a billboard sign with a height of 49 feet above the grade level of the New Jersey State Highway Route 3 eastbound lane.
4. N.J.A.C. 19:4-8.14(h) Table 8-5, which requires the minimum sign setback to be five feet from any property line, whereas the applicant is proposing a setback of one foot from the New Jersey State Highway Route 3 Right-of-Way.

A public hearing was held at the Office of the Commission on Tuesday, October 8, 2013, and continued on Tuesday, November 19, 2013. Notice was given to the public and all interested parties as required by law. The public notice of this hearing was published in The Jersey Journal newspaper. Written comments were received from Mayor Michael J. Gonelli, representing the Town of Secaucus, on October 8, 2013. These comments were subsequently withdrawn by the Town of Secaucus in a letter prepared by David B. Drumeler, Esq., and dated November 15, 2013. Written comments were also received from Frances and Mary Petrizzo of 800 Fifth Street on September 17, 2013. All information submitted to the Division of Land Use Management relative to this application is made part of the record of this recommendation.

II. GENERAL INFORMATION

A. Existing and Proposed Use

The subject premises is a 2.58-acre parcel containing a three-story self-storage building, known as Storage Mart, with related parking areas and a paved access driveway around the building. The property is located in the Commission's Neighborhood Commercial zone and fronts on New Jersey State Highway Route 3 East to the north and Flanagan Way to the south. Access to the site is provided from Flanagan Way only, as there is a significant grade separation between the property and Route 3. The irregularly-shaped lot borders a residential townhome development to the east and a fuel service station to the west. The residential district located directly across from the storage facility to the south of Flanagan Way falls outside of the NJMC zoning jurisdiction. Another residential neighborhood is situated north of the Route 3 corridor in the westbound direction, approximately 200 feet away from the storage facility, and is located within the Commission's Low Density Residential zone. Route 3 in the vicinity of the subject

site provides four traffic lanes in both the east and west bound directions, separated by a grassy median.

The applicant is proposing to install a freestanding static face billboard sign on the premises adjacent to and directed towards the Route 3 traffic in the eastbound direction.

B. Response to the Public Notice

Written comments were received from Mayor Michael J. Gonelli, representing the Town of Secaucus, on October 8, 2013. These comments were subsequently withdrawn by the Town of Secaucus in a letter prepared by David B. Drumeler, Esq., and dated November 15, 2013. Written comments were also received from Frances and Mary Petrizzo of 800 Fifth Street on September 17, 2013.

III. PUBLIC HEARING (October 8, 2013 and November 19, 2013)

A public hearing was held on Tuesday, October 8, 2013, and continued on Thursday, November 19, 2013. NJMC staff in attendance were Sara J. Sundell, P.E., P.P., Director of Land Use Management and Chief Engineer; Sharon Mascaró, P.E., Deputy Director of Land Use Management and Deputy Chief Engineer; Mia Petrou, P.P., Senior Planner; and Fawzia Shapiro, P.E., Senior Engineer.

A. Exhibits

The following is a list of the exhibits submitted by the applicant at the public hearing and marked for identification as follows:

<u>Number</u>	<u>Description</u>
A-1	Aerial photograph of the subject property and surrounding properties.

- A-2 "Site Plan of Freestanding Billboard for Lot 7.01, Block 132," prepared by Grybowski Group, P.C., dated September 28, 2011 and revised through July 16, 2013.
- A-3 "Site Plan of Freestanding Billboard for Lot 7.01, Block 132," prepared by Grybowski Group, P.C., dated September 28, 2011 and revised through April 18, 2012.
- A-4 Bound packet containing an aerial photograph, street map, and nine photographs of and from the surrounding area, including Flanagan Way and Route 3.
- A-5 2013 NJDOT outdoor advertising sign permit for Atkins Outdoor, LLC.
- A-6 Curriculum Vitae for Hal Simoff, P.E., P.P., Simoff Engineering Associates.
- A-7 "Safety, Environmental, and Visual Impact Study for Outdoor Advertising Sign - Interstate Outdoor- Block 132, Lot 7.01," prepared by Hal Simoff, P.E., P.P., dated October 10, 2011 and revised through May 20, 2013.
- A-8 "Memo - Interstate Billboard - Flanagan Way," prepared by Hal Simoff, P.E., P.P., and dated September 12, 2013.
- A-9 Curriculum Vitae for John McDonough, L.A., P.P., AICP, John McDonough Associates, LLC.
- A-10 Planning Exhibits for Interstate Outdoor- 280 Flanagan Way including a regional aerial photograph, close-up aerial photograph, and eight photos of the site and surrounding properties (4 sheets in total).
- A-11 Written comments from David Drumeler, Esq., on behalf of the Town of Secaucus, and dated November 18, 2013.
- A-12 Lighting Analysis, Figure 1 and 2, prepared by Simoff Engineering Associates.

B. Testimony

Louis L. D'Arminio, Esq., of the firm Price, Meese, Shulman & D'Arminio, represented Interstate Outdoor Advertising, LP, at the hearing. The following witnesses testified in support of the application:

1. Jeffrey W. Gerber, Interstate Outdoor Advertising, LP.
2. Z. Thomas Grybowski, P.E., Grybowski Group, P.C.
3. Hal Simoff, P.E., P.P., Simoff Engineering Associates, Inc.
4. John McDonough, LA, P.P., AICP, John McDonough Associates, LLC

Staff findings and recommendations are based on the entire record. Transcripts of the public hearings were prepared and transcribed by Darlene Kulesa, Certified Court Reporter.

C. Public Comment

No members of the public were present to comment on the application.

IV. RECOMMENDATION

A. Standards for the Granting of a Use Variance from the Provisions of N.J.A.C. 19:4-8.14(h) Table 8-5, which does not permit billboard signs in the Neighborhood Commercial zone.

The NJMC Zoning Regulations at N.J.A.C. 19:4-4.14(e) state in part that, *a variance shall not be granted unless specific written findings of fact directly based upon the particular evidence presented are made that support conclusions that...*

1. *Concerning use variances:*
 - i. *The strict application of these regulations will result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the property owner.*

The site is located within a portion of the Neighborhood Commercial zone designation situated between Route 3 and a residential district to the south that falls outside of the NJMC zoning jurisdiction. Most properties in the Neighborhood Commercial zone are developed with uses that serve and are oriented to the local community. Development on the subject property, however, is oriented toward the property's regional commercial frontage along Route 3. The subject lot is developed with a three-story self-storage building that is approximately 33 feet in height. The mass and height of the self-storage building, combined with the mature landscaping along Flanagan Way, provide a physical separation between the residential district and the Route 3 highway corridor.

Properties that front on Route 3 are generally located within the Highway Commercial zone or the Commercial Park zone, where billboards are a permitted use. These zones adjoin the portion of the Neighborhood Commercial zone in which the property is located along the eastbound side of Route 3. Due to several factors, including the alignment of Route 3, the presence of a highway ramp, and the spacing of existing signage along the highway, there are no other suitably-zoned properties available to accommodate a billboard sign that could conform to NJDOT requirements. The subject site has obtained NJDOT approval for the proposed billboard sign, which is a prior approval required by the NJMC regulations.

The transitional nature of the premises and its proximity to the highway make the site suitable for the proposed billboard use,

which is compatible with other highway commercial uses that are permitted in the zone. Since there are no other opportunities for the placement of a billboard sign along the subject stretch of Route 3, the strict application of the regulations relating to the proposed billboard sign results in exceptional or undue hardship upon the applicant or property owner.

- ii. The variance will not result in substantial detriment to the public good and will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare.*

The granting of the requested variance to permit the installation of a billboard sign on the subject property will not result in substantial detriment to the public good and will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare. The subject site is developed with a large three-story self-storage building that is approximately 33 feet in height. The proposed billboard is a passive use that is compatible with the commercial nature of the subject property and will not hinder operations of the existing self-storage facility or adjacent properties.

The applicant testified that, due to the screening effect of the existing building, the billboard sign will not be visible to the adjacent residences south and east of the site. The viewshed for residences to the north along the westbound side of Route 3 also will not be negatively impacted since the proposed sign is directed towards the Route 3 eastbound traffic only. The potential visual impact of the proposed billboard is further minimized because a static face billboard is proposed.

The applicant testified that there are no indications of existing unsafe conditions or design flaws creating an unsafe environment along the subject stretch of Route 3. The billboard sign location and height will allow appropriate viewing of the sign without creating distractions or conflicts for drivers on the highway.

Therefore, a billboard sign, as proposed at this specific location, would not result in significant adverse impacts to neighboring properties or the public and would not create unsafe conditions for drivers on Route 3.

iii. Adequate infrastructure, including storm and sanitary sewers, utilities, and access roads, will be provided and shall be so designed to prevent and/or minimize negative impacts upon the existing infrastructure. In addition, the proposed use will not decrease the ability of said infrastructure to perform in a safe and efficient manner.

The granting of the requested variance to permit the installation of a static face billboard sign on the subject property will not negatively impact the existing utility infrastructure. Electric service for lighting of the static face billboard sign is already in place on the improved parcel. There will be no impact to any other utilities or infrastructure. The proposed use will not decrease the ability of the existing infrastructure to perform in a safe and efficient manner.

iv. The variance will not have a substantial adverse environmental impact.

The granting of the requested variance to permit the installation of a static face billboard sign on the subject premises will not result in any substantial adverse environmental impacts. The billboard sign is proposed on a fully developed property that does not contain environmentally sensitive areas. The steel support for the sign is to be located in a concrete island with no disturbance to open space. The lighting of the proposed billboard will meet all NJMC requirements. NJMC performance standards will not be exceeded for noise, vibration, airborne emissions, glare, hazardous and radioactive materials and wastewater.

v. The variance will not substantially impair the intent and purpose of these regulations.

The stated purpose of the Neighborhood Commercial zone is “to provide uses compatible with the scale and character of the neighboring residential areas, serving both residents and the area employees.” One of the purposes of the NJMC regulations at N.J.A.C. 19:4-1.2(a)8 is to promote development in accordance with good planning principles that relate to type, design, and layout of such development to both the particular site and the surrounding environs. The subject property contains a self-storage building of a mass and height that does not fit the scale and character of the zone. However these improvements serve as screening mechanisms to shield nearby residences from the highway corridor. The proposed billboard use is compatible with the improvements on the subject site and its surrounding highway

commercial-oriented environment. The billboard is proposed to be located adjacent to the highway right-of-way and directed towards the Route 3 eastbound lanes. The billboard sign has been suitably placed to avoid negative visual impact to the existing residences located in the vicinity of the site. Furthermore, the billboard is a passive use that will not hinder the existing self-storage operation, which can continue to serve the general public and local residents. Therefore, the proposed billboard sign at this particular location will not substantially impair the intent and purpose of the regulations.

vi. The variance at the specified location will contribute to and promote the intent of the NJMC Master Plan.

The NJMC Master Plan designates the subject premises as a part of the District's Commercial Corridor planning area. While the Master Plan's planning areas do not constitute zoning districts, the planning objectives for these areas provide the foundation for the NJMC district zone regulations. The zone plan and regulations reflect the spirit and intent of the Master Plan and are the mechanism by which the policies and principles of the Master Plan are implemented and enforced.

The Commercial Corridor takes advantage of commercial retail opportunities along major transportation corridors. In addition, one of the goals of the Master Plan is to promote a suitable array of land uses that encourage economic vitality, create jobs, and support public health, safety, and general welfare. Although the subject property is located in the Neighborhood Commercial zone, all

activity on the site is oriented toward the northerly portion of the site and the regional highway commercial activity along Route 3. The proposed billboard is a commercial-oriented use that will promote economic growth for local and regional businesses that advertise on the billboard sign. The billboard sign on the subject premises is an instrument of business, suitably sited along a major transportation corridor that will encourage economic vitality for the local and greater region. The proposed use will not result in substantial detriment to the public health, safety, and welfare. Accordingly, the billboard use will contribute to and promote the intent of the NJMC's Master Plan and zoning regulations.

B. Standards for the Granting of a Bulk Variance from the Provisions of N.J.A.C. 19:4-8.14(h)7ii(2), which does not permit billboard signs within 500 feet of a residential zone or residence.

The NJMC Zoning Regulations at N.J.A.C. 19:4-4.14(e) state in part that, *a variance shall not be granted unless specific written findings of fact directly based upon the particular evidence presented are made that support conclusions that...*

1. Concerning bulk variances:

- i. The variance requested arises from such condition that is unique to the property in question, is not ordinarily found in the same zone, and is not created by any action of the property owner or the applicant.*

The site is part of an area within the Neighborhood Commercial zone situated between a commercial highway corridor and a residential district to the south that is not located within the NJMC zoning jurisdiction. A townhome development is located to the east of the site, and additional residences are located approximately 200 feet

north of the property, along the westbound side of Route 3. The site contains frontage on both Route 3 and Flanagan Way, although there is no direct access between the subject property and Route 3 because of a significant grade separation.

Despite its location in the Neighborhood Commercial zone, the development of the parcel, with its expansive three-story structure and height of 33 feet, does not fit the scale and character of other properties in the Neighborhood Commercial zone. The configuration of the site orients all activity toward the highway, isolating the development from the neighborhood in which it is located by a large expanse of wall. It is an unusual condition for a site in the Neighborhood Commercial zone, which is intended to accommodate uses to serve the local community, is instead oriented toward a regional highway upon which it contains no direct access, and from which it is grade separated. However, this configuration provides the opportunity for physical and visual separation between the highway corridor and the surrounding community. The proposed billboard sign is compatible with the self-storage facility and other similar commercial highway-oriented uses along Route 3. These conditions are not a common scenario in the District, and were not created by any action of the property owner or applicant.

- ii. The granting of the variance will not adversely affect the rights of neighboring property owners or residents.*

The subject property is fully developed and will not be hindered by the proposed billboard use, which is passive in nature. The steel support for the billboard will be located within a concrete island,

with no impacts to circulation or traffic on the premises or on Flanagan Way. The applicant testified that the proposed billboard is a static face sign and there are no future plans to upgrade to a digital face. The shielding effects of the existing Storage Mart building and mature landscaping on Flanagan Way will ensure minimal visual impact on the residences to the south and east of the site. Since the billboard is directed towards the eastbound lanes of Route 3, the residential view shed along Maple Street, across the highway from the proposed sign, will not be impacted by the billboard. There are no other improvements planned on the subject premises that could negatively impact the operations of neighboring properties, which can continue to function as they do under present conditions.

Furthermore, NJMC regulations do not permit signs to be illuminated between the hours of 10:00 pm and 6:00 am, where such signs are located on a lot adjacent to, or across a ROW from, any permitted residential use. There are a number of residences located adjacent or across the subject property, including a townhome development to the east, dwellings located beyond the NJMC jurisdiction across Flanagan Way to the south, as well as residences to the north across the Route 3 ROW within the Commission's Low Density Residential zone. Therefore, the restriction of illumination of the billboard sign between 10:00 PM and 6:00 AM is a recommended condition of approval.

Therefore, subject to the recommended conditions that the sign remain a static sign face and the restriction on overnight

illumination, the granting of the variance will not adversely affect the rights of neighboring property owners or residents.

iii. The strict application of the regulations will result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the property owner.

The strict application of the regulations would result in practical difficulties and undue hardship upon the applicant and property owner. The subject property contains improvements typical of large-scale commercial developments oriented to highway frontage. While the structure on the subject site does not fit the scale and character of the neighboring residential areas, the residences are visually and physically separated by this transitional parcel from a major transportation corridor. The proposed billboard is a passive use that is compatible with the existing self-storage use on the site and other commercial highway-oriented uses. The proposed billboard location has been approved by the NJDOT, which is a prior approval required by the NJMC. The applicant testified that, due to existing constraints, including the alignment of the Route 3 roadway, the location of a nearby highway overpass, and the proximity of existing highway signs, there are no other suitable locations for the placement of a billboard sign along the subject stretch of Route 3 that could conform to NJDOT requirements. Therefore, the strict application of the regulations relating to the proposed billboard sign results in exceptional or undue hardship upon the applicant or property owner.

iv. The variance will not result in substantial detriment to the public good and will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare.

There will be no substantial detriment to the public good and no adverse effects on the public health, safety, morals, order, convenience, prosperity or general welfare by the granting of the requested variance. The subject site contains improvements that physically and visually separate the residences from the highway corridor. The proposed billboard sign is compatible with the self-storage development and other similar commercial highway-oriented uses that are permitted in the zone. The billboard sign will not impede existing operations on the premises or negatively impact circulation or traffic on the site or on Flanagan Way. The existing building and mature landscaping along Flanagan Way screen the billboard sign from the residences south and east of the site. In addition, the view shed for residences along the westbound side of Route 3 will not be negatively impacted since the sign face is directed toward drivers on Route 3 traveling in the east bound direction.

The billboard sign is not directed towards drivers on local streets, nor will it be visible to them from Flanagan Way or other local streets. The applicant testified that the billboard location and height will allow for appropriate viewing of the sign without creating distractions or conflicts for drivers on Route 3.

v. *The variance will not have a substantial adverse environmental impact.*

The granting of the requested variance to permit the installation of a static face billboard on the subject premises will not result in any substantial adverse environmental impacts. The billboard is proposed on a developed parcel that does not contain any environmentally sensitive areas. The steel support for the sign is to be located in a concrete island, with no disturbance to open space. The lighting of the proposed billboard will meet all NJMC requirements. NJMC performance standards will not be exceeded for noise, vibration, airborne emissions, glare, hazardous and radioactive materials and wastewater. Therefore, the granting of the requested variance will not result in any substantial adverse environmental impacts.

vi. *The variance represents the minimum deviation from the regulations that will afford relief.*

The requested variance represents the minimum deviation from the regulations that will afford relief. The requested variance balances the NJMC regulations with specific use and site conditions. The existing self-storage facility use on the property does not fit the traditional scale and character of the neighboring residential areas, but serves as a transition between the adjoining residential areas and a major highway. The mass and height of the three-story self-storage building buffer the residences from Route 3 and the commercial corridor. The proposed billboard has been situated to have minimum visual impact on residences to the north, south and east. The billboard sign is specifically directed to the Route 3

eastbound traffic and not towards drivers on local streets. Furthermore, the passive billboard use is compatible with the improvements on the subject property and other commercial uses in the vicinity. As such, the requested variance represents the minimum deviation from the regulations that will afford relief.

vii. Granting the variance will not substantially impair the intent and purpose of these regulations.

The specific regulation from which the variance is requested relates to the provision that billboard signs are not permitted within 500 feet of a residential zone or residence. The intent of this regulation is to protect neighboring residential areas from the negative impacts commonly associated with billboards, including negative visual and aesthetic impacts, obstruction of scenic viewsheds, safety concerns attributed to driver distraction, and glare from illuminated signs. Additionally, a specified purpose of the NJMC regulations is to promote development in accordance with good planning principles that relate to type, design, and layout of such development to both the particular site and the surrounding environs.

The billboard use can be accommodated at this particular site precisely because of its ability to locate within it a billboard in a manner that directs all commercial usage toward the highway corridor, with minimal visual impact to the adjoining community. The configuration of existing development on the subject site provides a physical separation between the adjoining residential neighborhood and the highway upon which it faces. Furthermore,

the billboard is a passive use that will not interfere with the existing self-storage operation or negatively impact circulation and traffic on the premises or on adjacent roads. Therefore, the proposed billboard sign at this particular location will not substantially impair the intent and purposes of the regulations.

C. Standards for the Granting of a Bulk Variance from the Provisions of N.J.A.C. 19:4-8.14(h)7v, which requires the maximum permitted height of a billboard sign to be 30 feet above the grade level of the adjacent roadway surface, whereas the applicant is proposing to install a billboard sign with a height of 49 feet above the grade level of the New Jersey Highway Route 3 eastbound lane.

The NJMC Zoning Regulations at N.J.A.C. 19:4-4.14(e) state in part that, *a variance shall not be granted unless specific written findings of fact directly based upon the particular evidence presented are made that support conclusions that...*

1. *Concerning bulk variances:*

- i. *The variance requested arises from such condition that is unique to the property in question, is not ordinarily found in the same zone, and is not created by any action of the property owner or the applicant.*

The requested variance to permit the installation of a billboard sign with a height of 49 feet above the grade level of the eastbound lanes of Route 3, whereas a maximum height of 30 feet above the grade level of the roadway is permitted, arises from conditions that are unique to the site. The subject site is a long and narrow parcel that fronts on Route 3 to the north and Flanagan Way to the south. Due to the presence of an eight-foot-high berm and a five-foot change in elevation between the site and Route 3, access to the site is only available from Flanagan Way, with no access to the site available

from Route 3. Substantial grade separation between a commercial property and the roadway upon which it fronts is not a common scenario in the Neighborhood Commercial zone. It is furthermore unusual that a property in the Neighborhood Commercial zone would orient development on the site toward a highway location from which it contains no direct access.

The alignment of Route 3 in the vicinity of the proposed billboard has a slight horizontal and vertical curvature that also impact billboard height and placement. The billboard sign height is further influenced by the canopy height for the adjacent fuel service station and by the height of existing signage along Route 3. These conditions are unique to the property in question and were not created by any action of the property owner or applicant.

- ii. *The granting of the variance will not adversely affect the rights of neighboring property owners or residents.*

The granting of the requested variance to permit the installation of a billboard sign with a height of 49 feet above the grade level of Route 3 will not adversely affect the rights of neighboring property owners. The proposed sign face is directed towards the Route 3 eastbound lanes, and not towards drivers on local roads. Previous versions of the site plan proposed a 67-foot sign height, where the sign extended over the self-storage building. The billboard height was subsequently lowered by 18 feet to address viewshed concerns from residents and from the Town of Secaucus. Lowering the sign height below the building roof height significantly reduces the visibility of the sign from the residences to the south. Similarly,

the sign will not be visible to the multifamily residential development on the east side of the subject property. As a result, the Town of Secaucus formally withdrew its prior objections to the billboard application on the premises. The applicant also testified that the sign face would not be visible to the residential homes situated along the westbound side of Route 3. Additionally, the applicant proposes a static face sign, which will further minimize the visual impact of the proposed sign, compared with a digital sign. Therefore, the granting of the variance will not adversely affect the rights of neighboring property owners.

iii. The strict application of the regulations will result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the property owner.

The strict application of the regulations permitting a maximum billboard height of 30 feet above the grade level of Route 3 would result in practical difficulties and undue hardship upon the applicant and property owner. The particular characteristics of the property present practical difficulties in the accommodation of the proposed billboard sign on the site, resulting in a proposed sign height that exceeds the maximum permitted height. There is a significant difference in elevation between the property and Route 3, where the site is approximately five feet higher in elevation than the highway. The sign height is also influenced by the canopy height of the adjacent fuel service station and by the height of existing signage and landscaping near the fuel service station. The applicant testified that the proposed billboard height is the minimum necessary to be visible to the traveling motorist on Route

3 in the eastbound direction. Lowering the sign height to the permitted maximum height of 30 feet would create visual interference with other signs, landscaping, and structures in the vicinity of the property, and would ultimately compromise safety and traffic flow on the highway. Lowering the sign would also interfere with traffic circulation on the premises, as there would be marginal vertical clearance for cars and trucks navigating the site. Therefore, lowering the sign height would result in an unreadable sign that compromises safety, both onsite and on the highway.

iv. The variance will not result in substantial detriment to the public good and will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare.

There will be no substantial detriment to the public good and no adverse effects on the public health, safety, morals, order, convenience, prosperity or general welfare by the granting of the requested variance. The billboard sign height is the minimum required for visibility to motorists on Route 3 East, without compromising safety on the highway. The sign height is also the minimum required to permit safe and unimpeded traffic movement and circulation on the site. The existing self-storage building's height is a visual barrier that minimizes views of the sign for residences to the east and south of the site. The applicant testified that the billboard sign face will not be visible to the residences on Maple Street since the sign is directed towards drivers on Route 3 East only.

v. The variance will not have a substantial adverse environmental impact.

The granting of the requested variance will not result in any substantial adverse environmental impacts. The static face billboard sign is proposed on a developed parcel that does not contain any environmentally sensitive areas. The steel support for the sign is to be located in a concrete island, with no open space disturbance. Also, there are no trees or vegetation along the highway right-of-way that would need to be removed due to the billboard placement. The sign lighting will meet NJMC requirements for hours of illumination and light sources will be arranged and shielded to reflect away from residences east and south of the site. The residences to the north are located approximately 200 feet away from the sign and also will not be negatively impacted by light sources or glare from the sign. The height of the billboard will not cause the NJMC's performance standards for noise, vibration, airborne emissions, glare, or hazardous materials to be exceeded.

vi. The variance represents the minimum deviation from the regulations that will afford relief.

The billboard height of 49 feet above the grade level of Route 3 is the minimum necessary to be legible and visible to motorists, without compromising driver safety. Any sign with a height less than 49 feet would be obstructed by existing features, including the canopy of the adjacent fuel service station, existing vegetation, and other signage along Route 3, creating distractions or conflicts for

drivers on Route 3. As such, the requested variance represents the minimum deviation from the regulations that will afford relief.

vii. Granting the variance will not substantially impair the intent and purpose of these regulations.

The requested variance will not substantially impair the intent and purpose of the regulations. Although the sign is proposed to be higher than the maximum permitted height of 30 feet above the Route 3 roadway surface, the proposed height does not cause any negative visual impact for the surrounding community. The sign is directed towards drivers on Route 3 and not toward drivers on local roads. The self-storage site is configured in a manner that shields the sign from view by area residences due to the mass and height of the existing structure and the presence of mature landscaping along Flanagan Way. The appearance of the surrounding area is not compromised, as the billboard will have minimal visual impact on the nearby residences.

D. Standards for the Granting of a Bulk Variance from the Provisions of N.J.A.C. 19:4-8.14(h) Table 8-5, which requires the minimum sign setback to be five feet from any property line, whereas the applicant is proposing a setback of one foot from the New Jersey State Highway Route 3 Right-of-Way.

The NJMC Zoning Regulations at N.J.A.C. 19:4-4.14(e) state in part that, *a variance shall not be granted unless specific written findings of fact directly based upon the particular evidence presented are made that support conclusions that...*

1. *Concerning bulk variances:*

- i. *The variance requested arises from such condition that is unique to the property in question, is not ordinarily found in the same zone, and is not created by any action of the property owner or the applicant.*

The subject site is irregular in shape and contains frontage on Route 3 and Flanagan Way. The depth of the parcel varies from approximately 97 feet on the west end to approximately 254 feet at the east end. The northerly property line is approximately 700 feet long with a radius of 3,720 feet and is adjacent to the Route 3 right-of-way, while the southerly property line is approximately 562 feet long with a radius of 1,473 feet along Flanagan Way. The site is improved with a self-storage building with notched facades on the north and south sides in response to the lot's increasing depth from the west end to the east end. A paved access road loops around the building for access to the individual storage units. The unconventional shape of the building is a direct result of the irregular shape of the parcel, creating minimal flexibility for locating a sign with the conforming setback. These conditions are not a common scenario in the Neighborhood Commercial zone, and were not created by any action of the property owner or applicant.

- ii. The granting of the variance will not adversely affect the rights of neighboring property owners or residents.*

The granting of the requested variance to permit a billboard sign within one foot of the Route 3 right-of-way will not adversely affect the rights of neighboring property owners. The applicant initially proposed a billboard sign that extended over the self-storage building with a conforming sign setback. In order to reduce the visibility of the sign to the nearby residences, the billboard height was lowered below the building height. This action consequently required the applicant to shift the sign face closer towards the northerly property line to avoid conflicts with the building. Lowering the sign height and shifting the sign closer to the Route 3 right-of-way, protects the rights of neighboring residences, as the appearance of the surrounding area is not compromised and there is minimal visual impact on nearby residences.

- iii. The strict application of the regulations will result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the property owner.*

The strict application of the regulations requiring the billboard sign to be set back five feet from the northerly property line would result in practical difficulties and undue hardship upon the applicant and property owner. The location of the existing building on the site impacts the applicant's ability to provide a conforming setback. The applicant testified that the sign could not be located any closer to the building and the proposed offset between the sign and the northerly property line is directly related

to the physical structure that exists on the property. Therefore, the strict application of the regulations would pose exceptional practical difficulties and hardship.

iv. The variance will not result in substantial detriment to the public good and will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare.

There will be no substantial detriment to the public good and no adverse effects on the public health, safety, morals, order, convenience, prosperity or general welfare by the granting of the requested variance. The proposed sign setback of one foot from the Route 3 right-of-way, which contains a grass berm between the subject property and the travel lanes, will not negatively impact the safety of drivers on Route 3. There is an additional 45 feet of open area located within the Route 3 right-of-way between the northerly property line and the travel lanes of the highway, which includes the presence of an eight-foot-high berm. There will be minimal visual impact to the residents located south and east of the site, since the existing structure on the premises will shield views of the billboard. The residences to the north are located across the Route 3 right-of-way, and restrictions on the overnight illumination of the sign will prevent significant adverse impact to those properties. The sign setback will not impact circulation on the premises or impede existing operations on the premises.

- v. *The variance will not have a substantial adverse environmental impact.*

The granting of the requested variance will not result in any substantial adverse environmental impacts. The static face billboard sign is proposed on a developed parcel that does not contain any environmentally sensitive areas. The steel support for the sign is to be located in a concrete island, with no open space disturbance. Additionally, no trees or vegetation along the highway right-of-way will be disturbed. Illumination of the sign will meet all NJMC requirements. The proposed sign setback from the northerly property line will not cause the NJMC's performance standards for noise, vibration, airborne emissions, glare, or hazardous materials to be exceeded.

- vi. *The variance represents the minimum deviation from the regulations that will afford relief.*

The requested variance represents the minimum deviation from the regulations that will afford relief. The requested variance arises from site-specific conditions. Specifically, the single-face static billboard, which has a conforming sign dimension, cannot be located any closer to the existing building on the site at its current height, resulting in a one foot setback between the edge of the sign face and the Route 3 right-of-way. Alternatively, a conforming setback could be achieved by placing the sign on the roof of the building, which, in turn, would make the sign more visible to the surrounding community and significantly increase the height of the sign. The sign at the proposed setback, while within one foot of the property line, maintains adequate separation from the adjoining

right-of-way due to a grade separation between the subject property and the highway, as well as the presence of an eight-foot-high grass berm within a 45-foot-wide open area within the Route 3 right-of-way between the site and the travel lanes of Route 3. Driver safety will not be compromised by the proposed setback, as the sign placement is within the appropriate cone of vision. In addition, the physical improvements on the site, such as the building's mass and height, minimize views of the billboard sign for nearby residents, who will not be impacted by the deficient setback. Therefore, the requested variance represents the minimum deviation from the regulations that will afford relief.

vii. Granting the variance will not substantially impair the intent and purpose of these regulations.

The intent and purpose of the application of setback requirements to signage is to provide adequate separation of signage from rights-of-way in order to minimize visual impact and promote safety. The requested variance will not substantially impair this intent and purpose of the regulations.

Although the sign is proposed to be located closer to the northerly property line than permitted, the proposed setback does not negatively impact drivers on Route 3, as adequate separation of the sign from motorists driving in the eastbound direction of the highway are separated from the subject site and billboard by a 45-foot-wide open area within the Route 3 right-of-way containing an eight-foot-high grass berm, and a five-foot grade difference between the property and the roadway. The proposed billboard

setback will not create distractions or conflicts for drivers. The proposed setback does not create any negative visual impact for the residential district since the self-storage building will shield the sign from residential views. Similarly, the setback does not negatively impact the view shed to the north of the site. The appearance of the surrounding area will not be compromised by the proposed setback.

V. SUMMARY OF CONCLUSIONS

A. Standards for the Granting of a Use Variance from the Provisions of N.J.A.C. 19:4-8.14(h) Table 8-5, which does not permit billboard signs in the Neighborhood Commercial zone.

Based on the record in this matter, the use variance application to permit a billboard sign in the Neighborhood Commercial zone is hereby recommended for approval.

APPROVAL 2/7/14 
Recommendation on Date Sara J. Sundell, P.E., P.P.
Variance Request Director of Land Use Management

approval 2/14/14 
Recommendation on Date Marcia A. Karrow
Variance Request Executive Director

B. Standards for the Granting of a Bulk Variance from the Provisions of N.J.A.C. 19:4-8.14(h)7ii(2), which does not permit billboard signs within 500 feet of a residential zone or residence.

Based on the record in this matter, the bulk variance application to permit a billboard sign within 500 feet of a residential zone or residence is hereby recommended for approval, subject to the following conditions:

1. The billboard shall be permitted only with a static sign face.
2. The proposed billboard sign shall not be illuminated between the hours of 10:00 PM and 6:00 AM.

CONDITIONAL APPROVAL

2/7/14



Recommendation on
Variance Request

Date

Sara J. Sundell, P.E., P.P.
Director of Land Use Management

Conditional Approval

2/11/14



Recommendation on
Variance Request

Date

Marcia A. Karrow
Executive Director

C. Standards for the Granting of a Bulk Variance from the Provisions of N.J.A.C. 19:4-8.14(h)7v, which requires the maximum permitted height of a billboard sign to be 30 feet above the grade level of the adjacent roadway surface, whereas the applicant is proposing to install a billboard sign with a height of 49 feet above the grade level of the New Jersey State Highway Route 3 eastbound lane.

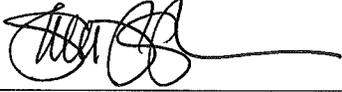
Based on the record in this matter, the bulk variance application to permit a billboard sign with a height of 49 feet above the grade level of the New Jersey State Highway Route 3 eastbound lane is hereby recommended for approval.

<u>APPROVAL</u>	<u>2/7/14</u>	
Recommendation on Variance Request	Date	Sara J. Sundell, P.E., P.P. Director of Land Use Management

<u>approval</u>	<u>2/10/14</u>	
Recommendation on Variance Request	Date	Marcia A. Karrow Executive Director

D. Standards for the Granting of a Bulk Variance from the Provisions of N.J.A.C. 19:4-8.14(h) Table 8-5, which requires the minimum sign setback to be five feet from any property line, whereas the applicant is proposing a setback of one foot from the New Jersey State Highway Route 3 Right-of-Way.

Based on the record in this matter, the bulk variance application to permit a billboard setback of one foot from the New Jersey State Highway Route 3 Right-of-Way is hereby recommended for approval.

<u>APPROVAL</u>	<u>2/7/14</u>	
Recommendation on Variance Request	Date	Sara J. Sundell, P.E., P.P. Director of Land Use Management

<u>approval</u>	<u>2/10/14</u>	
Recommendation on Variance Request	Date	Marcia A. Karrow Executive Director